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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

MARVIN PROFITT,

Petitioner,

V.

LAKE COUNTY PROBATION  
DEPARTMENT, et al.,

## Respondent.

Case No. 17-cv-07136-JD

**ORDER FOR RESPONDENT TO  
FILE AN ANSWER**

Marvin Profitt, a former prisoner, filed a pro se petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The Court granted respondent's motion to dismiss in part and found that two of the three claims in the petition were unexhausted. Petitioner was provided the option to either file a motion to stay to exhaust the two claims or file an amended petition striking the two claims and proceeding with the one exhausted claim. Petitioner has filed an amended petition containing only the exhausted claim that counsel was ineffective for making certain statements during closing arguments.

For the forgoing reasons:

1. The unexhausted claims are **DISMISSED** from the petition.
2. Respondent shall file with the Court and serve on petitioner, within fifty-six (56) days of the issuance of this order, an answer conforming in all respects to Rule 5 of the Rules concerning Section 2254 Cases, showing cause why a writ of habeas corpus should not be granted. Respondent shall file with the answer and serve on petitioner a copy of all portions of the state record that have been transcribed previously and that are relevant to a determination of the claims presented by the petition.

If petitioner wishes to respond to the answer, he shall do so by filing a traverse with the

1 Court and serving it on respondent within twenty-eight (28) days of his receipt of the answer.

2       3. Petitioner is reminded that all communications with the Court must be served on  
3 respondent by mailing a true copy of the document to respondent's counsel. Petitioner must keep  
4 the Court informed of any change of address and must comply with the Court's orders in a timely  
5 fashion. Failure to do so may result in the dismissal of this action for failure to prosecute pursuant  
6 to Federal Rule of Civil Procedure 41(b). *See Martinez v. Johnson*, 104 F.3d 769, 772 (5th Cir.  
7 1997) (Rule 41(b) applicable in habeas cases).

8       **IT IS SO ORDERED.**

9       Dated: May 30, 2019

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12       JAMES DONATO  
13       United States District Judge  
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MARVIN PROFITT,  
Plaintiff,  
v.  
LAKE COUNTY PRO  
DEPARTMENT, et al.,  
Defenda

Case No. 17-cv-07136-JD

## **CERTIFICATE OF SERVICE**

LAKE COUNTY PROBATION  
DEPARTMENT, et al.,  
Defendants.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on May 30, 2019, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Marvin Profitt  
4678 Inyo Way  
Kelseyville, CA 95451

Dated: May 30, 2019

Susan Y. Soong  
Clerk, United States District Court

By: Lisa R. Clark  
LISA R. CLARK, Deputy Clerk to the  
Honorable JAMES DONATO